WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000

ENROLLED

SENATE BILL NO. 641

(By Senator Wooton, et al.)

PASSED March 11, 2000

In Effect from Passage
AN ACT to amend article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-eight, relating to creating the offense of criminal invasion of privacy; definitions; penalties; and enhanced penalties for second and subsequent offenses.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-eight, to read as follows:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

(a) For the purposes of this section, the words or terms defined in this subsection have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context:

(1) "A person fully or partially nude" means a male or female who is either clothed or unclothed so that: (A) All or any part of his or her genitals, pubic area or buttocks is visible; or (B) in the case of a female only, a part of a nipple of her breast is visible and is without a fully opaque covering;

(2) "To visually portray" a person means to create a reproducible image of that person by means of:

(A) A photograph;

(B) A motion picture;

(C) A video tape;

(D) A digital recording; or

(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person; and

(3) "Place where a reasonable person would have an expectation of privacy" means a place where a reasonable person would believe that he or she could, in privacy, be fully or partially nude without expecting that the act of exposing his or her body was being visually portrayed by another person.

(b) It is unlawful for a person to knowingly visually portray another person without that other person's knowledge, while that other person is fully or partially nude and is in a place where a reasonable person would have an expectation of privacy. A person who violates the provisions of this subsection is guilty of a misdemeanor
and, upon conviction, shall be confined in a county or
regional jail for not more than one year or fined not more
than five thousand dollars, or both.

(c) Any person who displays or distributes visual images
of another person with knowledge that said visual images
were obtained in violation of subsection (b) of this section
is guilty of a misdemeanor and, upon conviction, shall be
confined in a county or regional jail for not more than one
year or fined not more than five thousand dollars, or both.

(d) A person who is convicted of a second or subsequent
violation of subsection (b) or (c) of this section is guilty of
a felony and, upon conviction, shall be confined in a state
correctional facility for not less than one year nor more
than five years or fined not more than ten thousand
dollars, or both.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

[Signature]

Chairman House Committee

[Signature]

Originated in the Senate.

In effect from passage.

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

[Signature]

The within this the 29th Day of

Governor

[Signature]
PRESENTED TO THE 
GOVERNOR
Date 3/23/02
Time Y: D: M: